

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-3083

September Term, 2023

1:21-cr-00085-CRC-1

Filed On: January 16, 2024

United States of America,

Appellee

v.

John Herbert Strand,

Appellant

BEFORE: Katsas, Rao, and Garcia, Circuit Judges

ORDER

Upon consideration of the motion to hold case in abeyance and the opposition thereto; and the motion for release pending appeal, the opposition thereto, and the reply, it is

ORDERED that the motion to hold case in abeyance be granted and that this case be held in abeyance pending further order of the court. The parties are directed to file motions to govern further proceedings within 30 days after the mandates issue in both United States v. Fischer, No. 22-3038 (cert. granted Dec. 13, 2023), and United States v. Brock, No. 23-3045 (argued Sept. 27, 2023). It is

FURTHER ORDERED that the motion for release pending appeal be denied without prejudice to appellant's moving for release in district court under 18 U.S.C. § 3143(b). See Fed. R. App. P. 9(b); D.C. Circuit Handbook of Practice and Internal Procedures 34 (2021). The record suggests that appellant is not a flight risk or a danger to others, 18 U.S.C. § 3143(b)(1)(A), and the government does not dispute that this appeal is not for the purposes of delay and that it raises a substantial question of law, id. § 3143(b)(1)(B). However, even assuming that resolving that substantial question of law in appellant's favor will result in "a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process," id. § 3143(b)(1)(B)(iv), appellant would be eligible for release

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-3083

September Term, 2023

only after serving the duration of his “likely reduced sentence,” *id.* § 3143(b)(1) (flush language). The district court is in a better position to determine in the first instance, and on full briefing, what appellant’s likely reduced sentence would be.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Selena R. Gancasz
Deputy Clerk